

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**ID #12585
RESOLUTION E-4517 (Rev. 1)
DECEMBER 19, 2013**

R E S O L U T I O N

Resolution E-4517. Reasonableness review of Pacific Gas and Electric Company's (PG&E's) Schedule E-31 discounted rate contracts for the period 2004 through 2008.

PROPOSED OUTCOME: This Resolution determines that the discounted rates PG&E charged its Schedule E-31 customers during the review period were reasonable.

SAFETY CONSIDERATIONS: Customers who receive service under Schedule E-31 contracts are subject to all applicable local, state, and federal safety rules and regulations. These contracts have no incremental safety implications for the facilities or operations of PG&E.

ESTIMATED COST: Following this determination of reasonableness, PG&E is allowed to recover \$1,803,489 (the balance in the Distribution Bypass Deferral Rate Memorandum Account at the end of 2008) from customers with loads greater than 20 kilowatts in its Annual Electric True-Up.

By Advice Letter 3524-E dated September 16, 2009, as supplemented in Advice Letter 3524-E-A dated April 5, 2013.

SUMMARY

Public Utilities (PU) Code Section 454.1 authorizes a utility to offer discounted electric service rates to a customer, under specified circumstances, if that customer receives an offer for service from an irrigation district at rates lower than the utility's tariffed rates. To implement this legislation for PG&E, the Commission adopted Electric Schedule E-31 establishing provisions for

discounted rate agreements. From 2004 through 2007, PG&E entered into thirty contracts with various customers pursuant to Schedule E-31. Modesto Irrigation District (MID) filed a Complaint at the Commission regarding these contracts. PG&E and MID ultimately reached a settlement resolving the issues and this agreement was adopted by the Commission in Decision (D.) 09-06-025.

Per directives in D. 09-06-025, PG&E filed an advice letter seeking a rate reasonableness review of its Schedule E-31 contracts entered into prior to 2009. In this Resolution, we find that PG&E showed lack of diligence by allowing six customer accounts to continue to receive rate discounts for almost three years after their contract expiration date, resulting in a shortfall of revenues. However, PG&E has demonstrated this shortfall was not collected from ratepayers thus no financial harm incurred. In all other aspects, we conclude that the rates PG&E charged its Schedule E-31 customers during the 2004-08 time period were reasonable and PG&E is authorized to recover \$1.8 million for the costs of these discounts from customers with demand greater than 20 kilowatts (kW).

BACKGROUND

Pursuant to PU Code Section 454.1 and Commission-approved tariffs, PG&E is allowed to offer discounts to retain or attract medium/large load electric customers within its service territory when an irrigation district provides, or is seeking to provide, similar service at lower rates.

On September 30, 2000, Section 454.1 was added to the PU Code authorizing an electric utility to discount its non-commodity rates (but not below its distribution marginal cost) to customers with peak demand greater than 20 kW if those customers receive a bona fide offer from an irrigation district at rates lower than the electric utility's tariffed rates. The broader policy goal behind this legislation was the need to minimize stranded costs of the utility in the face of emerging distribution competition from the irrigation districts.

To implement the legislation, PG&E filed an advice letter on August 26, 2002 proposing new tariffs. On August 21, 2003, the Commission issued Resolution E-3801 approving the advice letter with modifications. In compliance, PG&E filed revised tariffs in a supplemental advice letter which became effective on September 2, 2003. The revised tariffs consisted of 1) a new rate schedule (E-31 - Distribution Bypass Deferral Rate) specifying eligibility and provisions, 2) a contract form (No. 79-995 - Agreement for Customers Taking Service on

Schedule E-31) that specifies the calculation of the customer's discounted rate, informational and system requirements, and general terms and conditions of the contract, and 3) a memorandum account (Electric Preliminary Statement Part CK – Distribution Bypass Deferral Rate Memorandum Account (the Memorandum Account)) to record the amount of the discounts for later recovery from customers with peak demand in excess of 20 kW.

The Commission adopted a settlement agreement filed by MID and PG&E to eliminate ambiguity in Schedule E-31 and to establish a framework of rules, including a requirement for an annual reasonableness review of the Schedule E-31 contracts.

Although the Commission approved Schedule E-31 in late 2003, MID and PG&E continued to disagree with each other regarding certain fundamental aspects of the tariff. On August 28, 2007, MID initiated Complaint (C.) 07-08-027 alleging that PG&E's offers of discounted service violated applicable laws and provisions of Schedule E-31. Following extensive negotiations, PG&E and MID submitted a settlement agreement to the Commission on March 19, 2009 to eliminate ambiguity in Schedule E-31, establish a framework of mutually-acceptable rules to abide by prospectively (including a requirement for an annual reasonableness review of the contracts), and resolve the past disagreements reflected in MID's Complaint.

Specifically, the settlement agreement provided that PG&E shall submit the Schedule E-31 contracts for reasonableness review by advice letter and Energy Division shall conduct a rate and procedural review of these contracts. The settlement provided that the reasonableness review for all contracts PG&E entered into prior to 2009 would include only a rate review because all existing procedural issues were resolved in the settlement agreement. The Commission adopted the settlement agreement in D.09-06-025.

Pursuant to the terms of the adopted settlement, PG&E filed an advice letter requesting Commission review of the reasonableness of the Schedule E-31 rates in effect during the 2004-08 period.

By Advice Letter (AL) 3524-E, filed on September 16, 2009, PG&E requests a rate reasonableness review of Schedule E-31 contracts for the period beginning 2004 and extending through 2008. This submittal contains contracts and supporting data for thirty customers located within MID's and PG&E's mutual service area referred to as

the “Four Cities Area” of Ripon, Escalon, Oakdale, and Riverbank.¹ Of those thirty customers, PG&E identifies twenty-one as “current” as of the end of 2008, and nine as customers whose contracts “expired or were closed” during the 2004-08 review period. PG&E states that it conducted its review of these contracts and found that the revenues it received from the customers taking service under Schedule E-31 for the relevant time period exceeded the contract floor price, as required by tariff, and are reasonable.

Following determination by the Commission that the contracts are reasonable, PG&E states it will incorporate the Memorandum Account balance of \$1.8 million (as of the end of 2008) in the first subsequent Annual Electric True-Up advice letter so that the amount will be recovered from customers with loads greater than 20 kW.

In response to Energy Division requests for additional information, PG&E filed modifications on April 5, 2013 in supplemental AL 3524-E-A to demonstrate consistency and full compliance with Schedule E-31 and the Memorandum Account.

NOTICE

This filing was noticed in the Daily Calendar and served on parties in accordance with General Order 96-B directives.

Notices of AL 3524-E and supplemental AL 3524-E-A, were made by publication in the Commission’s Daily Calendar. PG&E states that a copy of each advice letter was mailed and electronically distributed to parties in accordance with General Order 96-B.

PROTESTS

MID timely protested PG&E’s advice letter filing expressing concern that the lists PG&E provided for the 2004-08 review period are not accurate because customer accounts on the “expired or were closed” list should be on the “current” list instead. MID asserts that the Commission’s 2004-08 rate review should include analysis of these customer accounts, and that MID has the right to address them in PG&E’s next reasonableness review.

¹ Because much of the data necessary for the reasonableness review is customer-specific information and confidential, PG&E submitted it under seal in accordance with Section 583 of the PU Code. MID was not entitled to review such information. Certain confidential documents and lists were served on MID, pursuant to provisions 4.4 (a), 4.4 (b), and 4.4(c) of the settlement agreement.

On October 6, 2009, MID submitted a protest² to PG&E's AL 3524-E stating that customer lists PG&E provided to the Commission for the 2004-08 review period are materially inaccurate based on information available to it from customers, information set forth in the Schedule E-31 contracts attached to the advice letter, and information contained in PG&E's data request responses provided to MID. MID would like these lists to be corrected so that the Commission's 2004-08 rate review (and later reasonableness reviews) are based on an accurate record.

Specifically, MID contends that PG&E included six customer accounts on its list of contracts that "expired or were closed" during the 2004-08 review period but that these customers were still taking service under Schedule E-31 through the summer of 2009 despite contract expiration dates of September 2006 and October of 2006. MID asserts that these customers should be on PG&E's list of "current" customers, and the Commission's 2004-08 rate review should address the fact that these contracts expired in 2006 and include analysis of these accounts through the end of 2008. MID also states that it reserves the right to address these accounts in the next reasonableness review advice letter.

MID also contends that three customer accounts on PG&E's list of contracts that "expired or were closed" during the 2004-08 review period have E-31 contracts with terms that extend beyond 2008.³ MID asserts that these accounts should be on PG&E's "current" customer list and included in the Commission's 2004-08 rate review. To the extent these accounts received service in 2009, MID reserves the right to address them in the next reasonableness review.

PG&E replied to MID's protest stating that customer accounts are properly listed in its advice letter for the 2004-08 review period, and that they do not need to be included in future reviews.

In its reply, filed on October 13, 2009, PG&E explains why it believes the Schedule E-31 contracts that MID is concerned about are properly assigned to its

² MID referred to its concerns as a "response" but filed them as a "protest" under Section 7.4.1 of General Order 96-B.

³ The contracts attached to the advice letter show expiration dates in May 2009, June 2009, and November 2010.

list of customers whose contracts “expired or were closed” during the 2004-08 review period. PG&E states that all thirty contracts were among the subjects of C.07-08-027 which were resolved in the settlement agreement approved by D.09-06-025 in June 2009. According to PG&E, following issuance of D.09-06-025, it reviewed all of the contracts and determined that six customer accounts (the same that were identified by MID) with original contract termination dates of September 2006 and October 2006 should be cancelled, updated its billing to reflect these cancellations as of their termination dates, and is serving these electric customers on their otherwise applicable rate schedules and not on Schedule E-31. PG&E argues that it is proper to include these customer accounts on its “expired or were closed” list and that the Commission’s 2004-08 rate review should only go through their original contract termination dates.

PG&E states that the three other customer accounts identified by MID closed their accounts and stopped receiving E-31 service prior to the beginning of 2009. Thus, it asserts that they are properly listed as “expired or were closed” and should not be included in future review periods.

DISCUSSION

The rate review in this resolution covers the period 2004-08. All customers who took service under Schedule E-31 contracts during this period should be included. Similarly, the reviews for future periods should include all customers who took service under these contracts during those periods.

As discussed in the Protest section above, MID and PG&E disagree over which Schedule E-31 customers should be included and analyzed in the 2004-08 review period, and which should be included in future reviews. MID believes that an accurate account of “current” customers for the 2004-08 review period would be all customers who were taking service under Schedule E-31 during those years. Customers on the “expired or were closed” list would only be those who were no longer taking under Schedule E-31 as of the end of 2008. PG&E believes it is proper to exclude customers from the “current” list for the 2004-08 time period if they stopped taking service or if they should not have taken service during those years. These customers were instead placed on its “expired or were closed” list.

We agree with MID that PG&E should provide to the Commission an accurate account of which customers actually took service under Schedule E-31 during the specified review period and which customers were no longer taking service

under Schedule E-31 as of the end of the review period. It is also essential that PG&E provide supporting records, information, and data to the Commission for all customers who took service under Schedule E-31 during the time period at issue so that we can analyze the accuracy of PG&E's calculations and the attendant rates given to these customers. These directives were clearly articulated in the settlement agreement adopted in D.09-06-025.

In response to an Energy Division data request, PG&E provided copies of Billing Change Order (BCO) requests, dated August 14, 2009, confirming that it erroneously gave discounted rates to six customer accounts past their 2006 contract expiration dates. Per the BCO details, PG&E decided to remove the six customers from the E-31 discounted rate schedule, place them on their otherwise applicable rate schedule, not back-bill these customers for past discounts, and "write-off" the resultant amounts as a "Customer Satisfaction Adjustment". Despite these billing changes, six customer accounts actually took service under Schedule E-31 until August 2009 even though their contracts had expired in September 2006 and October 2006. We agree with MID that our 2004-08 review, and our 2009 review, should include analyses of these accounts through the entire period that the customers received discounts under Schedule E-31, and not be limited to the original contract expiration dates. Also, we confirmed that the other three accounts of concern to MID stopped taking service under Schedule E-31 during 2007 and 2008. Our 2004-08 review includes analysis of these accounts through those dates and no further Commission review of these contracts in the future is warranted.

PG&E did not back bill six customer accounts for discounts given under expired contracts even though it was allowable under Rule 17. PG&E must "write-off" expenses associated with these discounts beyond the contract term such that other ratepayers do not have to make up the shortfall.

In its response to the Energy Division's data request, PG&E stated that per its BCO, it has "written-off" as a "Customer Satisfaction Adjustment" resultant charges totaling \$53,502. This amount represents the total revenue that PG&E was unable to collect from each of the six customers as a result of not billing them under the appropriate rate schedule after the expiration of their contracts.

PG&E acknowledged, in its BCO supporting documents, that failure to return these six customers to their otherwise applicable rate schedule at the time of contract expiration is a billing error. PG&E also acknowledged that while these

customer accounts should be re-calculated, re-billed, and PG&E should be held responsible for properly accounting for the revenue from the misapplication of the discounted rates, it concluded that these customers should not be penalized for its failure to quit billing under the discounted rate schedule. PG&E asserted that had it informed these customers that their contracts had expired and started to bill on the otherwise applicable rate schedules, these customers may have had an opportunity to receive another bona fide offer from an irrigation district.

At this point, it is pure speculation whether customers could have received another bona fide offer, whether PG&E could have met or beaten that offer because comparison rates and marginal costs change over time, and/or whether these customers would have left PG&E service. In fact, we note that PG&E stated that once it discovered its errors, PG&E began serving these electric customers on their otherwise applicable rate schedules. Apparently, these customers did not secure another bona fide offer nor did they leave PG&E to take service from MID once they began to be billed at non-discounted rates.

Nonetheless, the issue here is not what the customer could/would have done but rather whether PG&E properly accounted for the amounts associated with the erroneous discounts that were given after the effective contract termination dates. PG&E decided not to back bill these customers for this difference and instead chose to “write off” the accumulated discounts as a “customer satisfaction adjustment”. Pursuant to CPUC Electric Rule 17.1, PG&E did have the authorization to back bill these customers. Since PG&E chose not to, it must “write off” the uncollected discount amount of \$53,502 such that other ratepayers do not make up the shortfall.

PG&E has demonstrated that rate discounts given to Schedule E-31 customers after their contract term had expired have been borne by shareholders, and not by PG&E ratepayers, in the form of “customer satisfaction adjustments” for the period 2004-08. However, PG&E should bill its Schedule E-31 customers for any future discounts erroneously given. To the extent any erroneous discount is uncollectable, such expenses should be borne by PG&E’s shareholders directly.

In response to Energy Division inquiries regarding the specific accounting treatment for the “customer satisfaction adjustments” described in the BCO Review documents, PG&E stated that the affected accounts were Federal Energy Regulatory Commission (FERC) 903 (Customer Records & Collection Expense)

and FERC 142 (Accounts Receivable – Customer) for the amount of the “customer satisfaction adjustment”. PG&E clarified that these adjustments do not impact Revenue or Uncollectible Expense but rather go towards a Customer Service & Operations Expense Account.

Based upon this response, it appeared that the “customer satisfaction adjustments” were assigned to an account that is generally recovered from all ratepayers as an “above-the-line” item⁴ (through entries to FERC Account 903-Customer Records & Collection Expenses). This is problematic because PU Code Section 454.1 specifically provides that electric utilities shall not be allowed to recover any discounts from residential customers or small commercial customers.⁵

After additional inquiries and responses, Energy Division confirmed that PG&E has accounted for the customer satisfaction adjustments as an expense to shareholders. Even though PG&E recorded the corresponding expenses in FERC Account 903, it did not request recovery of any customer satisfaction adjustment-related cost in a General Rate Case (GRC). PG&E stated that any GRC-type expenses recorded in FERC Account 903 that are not covered by a GRC authorized budget are not subject to recovery by default, and flow-through to affect earnings available for PG&E’s shareholders. Thus, PG&E maintains that its shareholders paid for the excess discounts provided to these six Schedule E-31 accounts.

We also note that due to the timing of the accounting entries and PG&E’s ongoing GRC, PG&E would not have been able to recover these expenses from ratepayers. PG&E states that it recorded these adjustments in the O&M account in August 2009. At that time, PG&E was preparing to submit its Test Year (TY)

⁴ “Above-the-line” expenses and revenues (shown above the operating-income line on a utility’s income statement) are generally included in a utility’s revenue requirement and, thus, directly reflected in rates. “Below-the-line” items, by contrast, are items that appear below the operating-income line on a utility’s income statement and are generally excluded from rate recovery.

⁵ Small commercial customer is a customer with maximum peak demand of 20 kW or less.

2011 GRC application. PG&E submitted that application to the Commission on December 21, 2009, and the forecasted expenses for 2011 were based on historical cost data through 2008. Thus, any adjustment to 2009 expenses would not have impacted the forecasted years 2011 through 2013. With forecasted ratemaking, unless a balancing/memorandum account is established, there is no provision for PG&E to recover expenses that exceed authorized amounts. The Commission approved a settlement in its TY 2011 GRC case on May 13, 2011. Neither the settlement nor the decision indicates that recorded 2009 expenses were utilized.

Although PG&E has demonstrated that these specific customer satisfaction adjustments for billing errors related to Schedule E-31 discounts have not been recovered from residential or small commercial customers through GRC rates (which would be in violation of PU Code Section 454.1), PG&E should bill any future discounts erroneously given to its customers pursuant to Schedule E-31 after the expiration of such customers' Schedule E-31 contracts in accordance with CPUC Electric Rule 17.1. To the extent any erroneous discount is uncollectable pursuant to CPUC Electric Rule 17.1, such expenses should be borne by PG&E's shareholders directly.

PG&E has demonstrated that it is not recovering the shortfall associated with the expired contracts through the Memorandum Account. At Energy Division's request, PG&E moved all post-contract discount entries to the appropriate billing month and made other adjustments to reconcile entries with billing data. These updates reduced the balance in the Memorandum Account by \$37,135.

The Memorandum Account was specifically established to allow PG&E to record the amounts associated with discounted revenues resulting from Schedule E-31 for later recovery from customers with loads over 20 kW. Discounts given to retain existing PG&E customers are recorded as a debit in the Memorandum Account. In situations where PG&E attracts an irrigation district's customer, a credit is recorded in the Memorandum Account for the difference between the amount of revenue received under Schedule E-31 and the marginal cost of serving that customer.

Although PG&E had responded in its data response that it only charged FERC accounts for the "write-off" amounts, Energy Division expected the discounts from the expired contracts to have been recorded in the Memorandum Account and thus it requested more specific accounting details. In response, PG&E

provided billing details (e.g. month, kilowatt-hours, and amounts as “billed” and “rebilled”) and copies of all the Memorandum Account entries for 2004 through 2008. This detail showed that PG&E had in fact entered debits into the Memorandum Account for the discounts given to these customer accounts beyond their respective contract expiration dates.

Although data for 2009 was not part of this reasonableness review period, Energy Division requested that PG&E provide the Memorandum Account accounting entries for 2009 to determine if any adjusting entries were made upon PG&E’s discovery of the errors. PG&E’s data response did show that PG&E had, in fact, removed post-contract expiration discount entries from the Memorandum Account in 2009. Thus, PG&E is not requesting the recovery of the revenue shortfall associated with the expired contracts from customers with loads over 20 kW peak demand (through debit entries in the Memorandum Account).

In response to Energy Division’s informal guidance during the data discovery process, PG&E agreed to remove these debit entries from each month following contract expiration to accurately reflect interest accruals rather than removing them in 2009, and agreed to make some other adjustments to reconcile entries with billing data. As a result of these changes, the Memorandum Account balance at the end of 2008 decreased from \$1,840,624 to \$1,803,489.

PG&E let service under six contracts continue for almost three years after the customers’ discounted rate contract terms had ended. PG&E must improve its record keeping and must put procedures in place to avoid such lapses in the future.

PG&E claims that it was unaware of the fact that six customer accounts were getting discounted service after the expiration of their contracts. Even though other ratepayers are not negatively impacted because PG&E shareholders absorb the resulting revenue shortfall, we take serious note of the lack of due diligence on PG&E’s part in this case. PG&E must improve its record keeping and must put procedures in place to avoid such lapses in the future.

All payments to PG&E from Schedule E-31 customers to meet minimum floor price requirements should flow through to all ratepayers. However, no accounting adjustments are recommended at this time.

Per Sections 7 and 8 of the “Agreement for Customers Taking Service on Schedule E-31, Form No. 79-995”, PG&E has to annually compute the total contract revenue it has collected from the customer to ensure that PG&E has collected at a minimum the annual revenue associated with the marginal cost floor price⁶. If the revenue collected during the preceding calendar year falls below the amount associated with the floor price (i.e. a negative contribution to margin), the customer has to pay PG&E a lump sum equal to the shortfall amount.

Customer billing records demonstrate that PG&E did in fact appropriately bill customers a lump sum amount to cover the shortfall in those instances where the customer’s annual revenues fell below the marginal cost floor price. In most cases, PG&E recorded the resulting customer payment amounts as “Revenue Adjustment Electric Medium Commercial & Industrial (EMCI)” but in some cases, PG&E recorded them as “Customer Satisfaction Adjustments”. PG&E explained that “Revenue Adjustment EMCI” are credits to distribution revenues similar to those collected for all customers’ monthly distribution revenues and flow through to all ratepayers through the Distribution Revenue Adjustment Mechanism (DRAM). PG&E stated that “Customer Satisfaction Adjustments” flow through to shareholders. PG&E believes that, for consistency, all lump sum payments should be “Revenue Adjustment EMCI”, however, given the time that has lapsed and the relatively small dollar amount involved, PG&E recommends making no special accounting entries to adjust for these revisions.

We agree with PG&E that all revenue PG&E receives from customers to meet minimum floor price requirements should flow through to all ratepayers by credit entries to the DRAM. However, for the reasons given by PG&E, no adjustments need to be made for this review period.

PG&E’s initial advice letter filing and early data responses lacked the supporting documentation that Energy Division deemed necessary to complete its rate reasonableness review.

⁶ For customers within MID’s and PG&E’s mutual distribution area (i.e. Ripon, Escalon, Oakdale, and Riverbank), the floor price equals 120 percent of PG&E’s total distribution planning area-specific, marginal transmission and distribution cost.

Pursuant to D.09-06-025, and the Settlement Agreement approved therein, Energy Division is required to perform a rate review of each of the contracts which PG&E entered into from the inception of Schedule E-31 through the end of calendar year 2008 to confirm “the accuracy of PG&E’s calculations and the attendant E-31 rates on which its E-31 contracts are based, including, without limitation, compliance with the marginal cost floor price”.⁷

In Attachment B of AL 3524-E filed in September 2009, PG&E submitted all thirty E-31 customer contracts for the period 2004 through 2008.⁸ Each customer contract contained an Exhibit A and B. Exhibit A is the “Discount Amount Worksheet” which shows numerical values for each of the rate components (i.e. PG&E’s Average Non-Commodity Rate, Competitor’s Average Non-Commodity Rate, Commodity Discount, PG&E’s Average Non-Commodity Rate (Net of Nonbypassable Charges), Allowable Discount, and Rate Discount Percentage). Exhibit B is the customer’s “Affidavit Regarding Receipt of Bona Fide Offer from an Irrigation District”.⁹ For nine out of the thirty contracts, Attachment B of the advice letter also contained hard copies of calculation worksheets supporting the numbers given on the Exhibit A. In February 2010, Energy Division requested that PG&E provide the remaining twenty-one calculation worksheets. By June 2010, PG&E had located and provided all but three of the worksheets. PG&E stated that the original source files for these remaining contracts were misplaced and every reasonable effort to find them was undertaken but it had not been able to locate them. PG&E noted, however, that when these exhibits were created, it would have used the same models and methodology as all of the other Exhibit A worksheets provided. By this time, PG&E had also provided Energy Division

⁷ See Sections 4.1 and 4.2 of March 19, 2009 MID/PG&E Joint Motion for Approval of Settlement Agreement (Attachment A of D.09-06-025) .

⁸ Because the information contained in Attachment B is customer-specific, PG&E marked it “confidential” and stated that the attachment was provided pursuant to PU Code Section 583. Although “confidential”, PG&E also provided a copy of this attachment to MID.

⁹ Energy Division initially requested copies of these “bona fide offer letters”. However, with further explanations from PG&E, Energy Division agrees that provision of these letters would fall under the requirements of a “procedural” review and not necessary for the “rate” review.

with marginal cost floor prices for twenty of the contracts, and PG&E was working on obtaining marginal cost floor prices for the remaining ten contracts.

Throughout the rest of 2010 and into early 2011, Energy Division sent new and follow-up inquiries and PG&E provided responses. During this time, PG&E provided general information regarding how it calculated transmission and distribution marginal cost floor prices. In June 2011, PG&E informed Energy Division that all Exhibit A calculation worksheets had been located, and it sent over a complete set with specific marginal cost floor prices for each customer. In September 2011, Energy Division requested and PG&E provided workbooks with the spreadsheets containing supporting calculations for the thirty marginal cost floor prices because the calculation worksheets PG&E previously provided had only values entered. As Energy Division reviewed the supporting workbooks, it discovered that numbers shown on the worksheets for about one-half of the customers were different than those previously submitted.

In February 2012, Energy Division sent PG&E another data request to follow up on inconsistencies it discovered concerning Nuclear Decommissioning (ND)¹⁰ revenues reported in PG&E's annual contribution to margin calculation workpapers. Energy Division also made a couple of more inquiries concerning marginal cost floor prices and attraction credit calculations. In its March 2012 response, PG&E acknowledged that it inadvertently included ND revenues in the annual contribution-to-margin (CTM) calculations and submitted revised annual review calculations for 2005 through 2008. A lot of Energy Division staff time could have been saved had PG&E maintained appropriate workpapers in an organized manner and included them with the advice letter filing.

Over the course of many months, PG&E conducted technical meetings with Energy Division, made necessary revisions, and filed supplemental documentation to finally demonstrate the reasonableness of the Schedule E-31 contract rates for the 2004 through 2008 period.

In April 2012, Energy Division management met with PG&E management to discuss the difficulties Energy Division was having in the review of the contracts, giving specific examples of the problems encountered to date. Following this

¹⁰ ND is a non-bypassable charge.

meeting, PG&E assigned staff to be more responsive to Energy Division's needs and to facilitate its reasonableness review. In May 2012, PG&E determined that some of the E-31 discount calculation workbooks provided to Energy Division in September 2011 contained preliminary analysis that did not correspond to the final E-31 contract offer made to the customer. Following this discovery, PG&E began supplementing its earlier responses and correcting previous errors. As of August 2012, Energy Division had made some progress but informed PG&E that some crucial information was still outstanding and it could not complete its rate review. Over the next few months, PG&E provided detailed technical explanations, made corrections to various parts of the Schedule E-31 contract qualification models, and made revisions to its annual CTM analyses. One such revision included the application of a consistent methodology for unit marginal costs. Tariff language states that the marginal costs are to be determined using the "appropriate CPUC-approved methodologies for marginal costing purpose in effect at the time".¹¹ For contracts qualified between 2004 and 2007 (which include all of the contracts in this rate reasonableness review period), the most recently adopted values are those set in the 1996 GRC because the 1999 and 2003 GRCs did not adopt any marginal costs. Although PG&E had previously escalated the marginal costs in the actual qualification models supporting the discounts, Energy Division and PG&E agreed that PG&E should revise the floor calculations to use the 1996 marginal costs because there are many escalation methods that maybe used and there is no "Commission-approved" methodology for modifying the marginal costs.

Also, PG&E modified or created workbooks using Schedule E-31 qualification workbook templates for those three contracts that did not reconcile with the values given in the final agreement offer. PG&E was able to replicate the contract discounts using historical information. In all instances, PG&E's corrections did not have a material impact on Schedule E-31 discounts and all discounts provided to customers resulted in rates above the marginal cost floor.

¹¹ Agreement for Customers Taking Service on Schedule E-31, Form No. 79-995.

Based on Energy Division's review, the discounted rates PG&E charged its Schedule E-31 customers during the 2004-08 period were reasonable.

Energy Division has reviewed all of PG&E's records and supplemental information and has confirmed both (a) the accuracy of the contract qualification calculations, including compliance with the marginal cost floor price provisions, and (b) determined the annual revenues PG&E received from customers taking service under Schedule E-31 during the review period for the majority of the customers exceeded the contract floor prices, and in instances where the revenues collected were below the floor price in any given year, the affected customers paid the revenue shortfall, as required by tariff. Accordingly, the rates PG&E charged its Schedule E-31 customers during the 2004-08 time period were reasonable.

Revised entries in the Memorandum Account are accurate and PG&E should make adjustments in its Annual Electric True-Up advice letter to assign the balance of \$1,803,489 to customers with demand greater than 20 kW.

Before the Commission can approve transfer of the Memorandum Account balance, Energy Division must review the amounts entered in the account. In January 2011, Energy Division requested, and PG&E provided, the monthly entries from January 2004 through December 31, 2008. The total balance at the end of 2008, with interest, was \$1,840,624. Energy Division reviewed each of the entries recorded in the Memorandum Account from 2004 through 2008 and compared them to customer-specific discounts and billing data. In doing this task, Energy Division discovered there were some monthly memorandum account entries without corresponding supporting billing data, and vice versa. As discussed above, PG&E removed all discounts associated with the expired contracts from the Memorandum Account in February 2013, and agreed to other Energy Division-recommended adjustments to reconcile entries with billing data. The revised Memorandum Account balance at the end of 2008 of \$1,803,489 is accurate. Following this resolution's determination of reasonableness, PG&E should make adjustments to its revenue allocation and rate design in its Annual Electric True-Up advice letter to ensure that only customers with demand greater than 20 kW are responsible for this amount. Specifically, PG&E is directed to

directly assign this balance to all customers except those customer served under residential schedules and Schedules A-1, A-6, and A-15.¹²

COMMENTS

Per statutory requirement, a draft resolution was mailed to parties for comment at least 30 days prior to a vote of the CPUC.

PU Code Section 311(g)(1) generally requires resolutions to be served on all parties and subject to at least 30 days public review and comment prior to a vote of the CPUC. Accordingly, a draft resolution was served on PG&E and MID, and was issued for public review and comment no later than 30 days prior to a vote of the CPUC.

Comments on the draft resolution were filed by PG&E and MID on December 9, 2013. The draft resolution has been revised in light of these comments

The draft resolution has been revised in response to PG&E's comments that FERC Account 426 is limited to certain categories of expenses, none of which include "billing errors" or related expenses.

In its comments, PG&E agrees with the draft resolution's conclusion that the discounted rates PG&E charged its Schedule E-31 customers during the 2004-08 review period were reasonable. PG&E also agrees that the discount amount (\$53,502) that PG&E did not charge and collect from its Schedule E-31 customers after the expiration of their contracts should be appropriately allocated to its shareholders but PG&E disagrees with language in the draft resolution regarding the specific accounting treatment of this uncollected discount amount. Specifically, PG&E believes the language directing PG&E to record any future uncollected Schedule E-31 discount amounts to FERC Account 426 should be

¹² PG&E notes that PU Code Section 454.1 states that reallocation of revenue differences shall not be imposed on residential customers or on commercial customers less than 20 kW. Since eligibility for PG&E's rates is not defined at 20 kW, PG&E asserts that this set of schedules would be used to implement this legislative provision.

modified because it is inconsistent with FERC accounting guidelines and unnecessary as a matter of ratepayer protection.

PG&E raises a valid concern regarding the draft resolution's specified accounting treatment of the uncollected discount amounts. FERC Account 426 is limited to certain categories of expenses, none of which include "billing errors" or related expenses. Accordingly, the draft resolution has been revised to replace the directives to record any future uncollected Schedule E-31 discounts to FERC Account 426 with language that instead requires such amounts to be borne by PG&E's shareholders directly.

The draft resolution has been revised in response to MID's comments that PG&E should be required to bill any future discounts erroneously given to its Schedule E-31 customers after the expiration of such customers' contracts in accordance with CPUC Electric Rule 17.1.

In its comments, MID states that it generally agrees with the draft resolution's conclusions but contends that allowing PG&E the option to write off inappropriate discounts – rather than require PG&E to collect those sums from the affected customers – creates an improper competitive tool that PG&E could choose to use against MID. Specifically, MID alleges that the draft resolution errs by not requiring PG&E to properly bill under Schedule E-31 in the first place – it only dictates how PG&E should behave after an error is made. To counter this, MID suggests that the draft resolution should be revised to instead require PG&E to back bill customers who improperly receive Schedule E-31 discounts due to PG&E's errors in future review periods.¹³ MID contends that would provide PG&E an incentive to correctly administer Schedule E-31 contracts and would take away the incentive for PG&E to choose to continue Schedule E-31 as a competitive tool against MID.

MID raises a valid point that PG&E should not have the option to advantageously allow improper discounts to be funded by its shareholders. Accordingly, the draft resolution has been revised to require PG&E to bill any future discounts erroneously given to its Schedule E-31 customers after the

¹³ MID does not request that PG&E back bill retroactively, nor does it contend that the draft resolution should be revised to require PG&E to back bill the six customers who were improperly provided a discount in the 2004-08 review period.

expiration of such customers' contracts in accordance with CPUC Electric Rule 17.1. To the extent any erroneous discount is uncollectable pursuant to CPUC Electric Rule 17.1, such expenses should be borne by PG&E shareholders directly. This revision should ensure that PG&E does not allow customers to receive improper discounts on expired Schedule E-31 contracts to the detriment of competition and MID.

FINDINGS AND CONCLUSIONS

1. PG&E filed AL 3524-E on September 16, 2009 to seek reasonableness review of thirty Schedule E-31 contracts for the 2004-2008 time period.
2. Per directives in D.09-06-025, Energy Division must conduct a rate review of these contracts to confirm the accuracy of PG&E's calculations, the attendant rates on which the E-31 contracts are based, including, without limitation, compliance with specified marginal cost floor provisions.
3. MID filed a timely protest on October 6, 2009 expressing concerns that the lists PG&E provided in its advice letter were materially inaccurate for nine customer accounts, and requesting that they be corrected to enable an accurate reasonableness review of the Schedule E-31 contracts.
4. PG&E replied to MID's protest on October 13, 2009 maintaining that customers are properly listed in its advice letter.
5. The Commission needs an accurate listing of those customers who actually took service under Schedule E-31 during the specified review period.
6. It is essential that PG&E provide supporting records, information, and data to the Commission for all customers who took service under Schedule E-31 during the time period at issue so that Energy Division is able to analyze the accuracy of PG&E's calculations and the attendant rates given to these customers.
7. Three customer accounts identified by MID stopped taking service under Schedule E-31 during 2007 and 2008. This 2004-08 review includes analysis of these accounts through those dates and no further Commission review of these contracts in the future is warranted.
8. MID correctly identified that six customer accounts continued to receive discounted rates under Schedule E-31 for almost three years after their contract expiration dates.
9. The reasonableness review for these six contracts should not be limited to the original contract dates but rather should include analysis of the contracts through the date customers received service under Schedule E-31.

10. Instead of back billing customers who had inadvertently received discounted service past their contract terms, PG&E decided to “write off” the discounts as “customer satisfaction adjustments” at shareholder expense.
11. PG&E has demonstrated that ratepayers did not pay for the “customer satisfaction adjustments”.
12. PG&E should bill any future discounts erroneously given to customers pursuant to Schedule E-31 after the expiration of such customers’ contracts in accordance with CPUC Electric Rule 17.1. To the extent any erroneous discount is uncollectable pursuant to CPUC Electric Rule 17.1, such expenses should be borne by PG&E’s shareholders directly.
13. PG&E filed supplemental AL 3524-E-A on April 5, 2013. In workpapers supporting that filing, PG&E appropriately removed the corresponding post-discount amounts from the Memorandum Account and made other adjustments recommended by Energy Division to reconcile entries with billing data.
14. PG&E must improve its record keeping and must put procedures in place to avoid allowing customers to continue to receive discounted rates after their contract expiration.
15. All payments to PG&E from Schedule E-31 customers to meet minimum floor price requirements should flow through to all ratepayers. However, no accounting adjustments are recommended at this time.
16. PG&E’s AL 3524-E filing and early data responses lacked the supporting documentation that Energy Division deemed necessary to complete its rate reasonableness review.
17. Over the course of many months, PG&E conducted technical meetings with Energy Division, made necessary revisions, and filed supplemental documentation to finally demonstrate the reasonableness of the Schedule E-31 contract rates for the 2004-08 period.
18. Energy Division has reviewed all of PG&E’s records and supplemental information and has confirmed the accuracy of the calculations supporting attendant E-31 contract rates, and verified compliance with required marginal cost floor price provisions for the review period.
19. The rates PG&E charged its Schedule E-31 customers during the 2004 through 2008 review period were reasonable.
20. PG&E should make adjustments in its Annual Electric True-Up advice letter to assign the Memorandum Account balance of \$1,803,489 to customers with demand greater than 20 kW.

THEREFORE IT IS ORDERED THAT:

1. The discounted rates Pacific Gas and Electric Company charged its Schedule E-31 customers during the 2004 through 2008 review period were reasonable.
2. Pacific Gas and Electric Company is allowed to recover \$1,803,489 (the balance in the Distribution Bypass Deferral Rate Memorandum Account at the end of 2008) from customers with loads greater than twenty kilowatts in its Annual Electric True-Up advice letter.
3. PG&E shall bill any future discounts erroneously given to customers pursuant to Schedule E-31 after the expiration of such customers' contracts in accordance with CPUC Electric Rule 17.1. To the extent any erroneous discount is uncollectable pursuant to CPUC Electric Rule 17.1, such expenses shall be borne by PG&E's shareholders directly.
4. This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on December 19, 2013; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director